Remarks:

Reconsideration of the application is requested.

Claims 1-20 and 25-28 remain in the application. Claim 20 has been amended. Claims 21-24 have been canceled. A marked-up version of the claim is attached hereto on a separate page.

In items 1-3 of the above identified office action, claim 20 is rejection under 35 USC § 112, second paragraph. More specifically, the Examiner states that the recitation of "said gimble tube" does not have sufficient antecedent basis. Claim 20 has been amended to recite that the housing is a gimble tube in order to provide the necessary antecedent basis.

In items 4-18 on pages 2-5 of the Office action, claims 1-4, 6, 8-10, 15-20 and 25-28 have been rejected as being obvious over U.S. Patent 5,140,928 to Frick under 35 U.S.C. § 103.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a

A fishing system to be mounted to a boat, the fishing system contains a housing, a mast having a mast axis and disposed in the housing, and a first actuator connected to and rotating

the mast about the mast axis. The first actuator is mechanically connected to and supported by the housing. A second actuator is connected to and pivots the housing for raising and lowering the mast.

Frick discloses a housing or face plate 32, a tubular mounting insert 14 holding a mast 12 disposed on an outer disk member 36 disposed within a recess 34 formed in the housing 32, a first actuator 78 connected to and rotating an inner ring shaped disk 38. The first actuator 78 is also secured to the housing 32. The inner disk 38 is secured via fasteners 40, 42 to the outer disk 36 and therefore a rotation of the inner disk 38 causes a rotation of the outer disk 36 resulting in the mast 12, 14 following a circular path as the outer disk 36 rotates. As shown in Fig. 1, the mast 12, 14 is rotated from position 22 to position 24. A second actuator 52 is connected to and pivots the mounting insert 14 that in turn pivots the mask 12. As shown in Fig. 2, the mast 12, 14 is pivoted from position 22 to position 26.

In contrast, the invention of the instant application teaches a mast 41-43 and 48 disposed in a housing 49. The bottom mast piece 48 is connected to the first actuator 60 and the first actuator 60 rotates the mask about the mast axis. Claim 1 of the instant application recites these features. It is noted that the actuator 60 directly rotates the bottom mast piece

48. It is believed that the bottom mast piece 48 of the instant application is equivalent to the tubular mounting insert 14 recited in Frick.

It is noted that the Examiner states that the actuator 78 of Frick is connected to and rotates the mast about its own axis. It is respectfully stated the actuator 78 is connected to and rotates the inner ring 38 which moves the whole mast in a circular motion but under no circumstances is the mast rotated about its own axis. In Fig. 6 of Frick, the mast 12, 14 is shown to be held to the outer plate 36 by the bracket 46 and T-bar end 48. In other words, the mast 12, 14 cannot be rotated about its own axis as stated by the Examiner because it is not rotably mounted.

In addition, the actuator 78 of Frick is not connected to the mast as is the actuator recited in claim 1 of the instant application. In other words, Frick teaches the rotation of the rings 36, 38 by the actuator 78. In contrast, the instant application teaches the rotation of the mast by the actuator 60.

An advantage of the invention of the instant application is that it is simple to construct as compared to the invention in Frick as the actuator 60 of the instant application is

directly connected to the mast and does not require the complicated ring structure as taught in Frick.

Further, claim 1 of the instant application teaches that the second actuator 64 is connected to and pivots the housing 49 (i.e. the whole housing 49). In contrast, Frick teaches that the actuator 52 is connected to and pivots the mast 12, 14 and that the actuator 52 is fixed to the housing 32. Under no circumstances is the housing 32 pivoted in Frick.

The Examiner further states "It would be obvious to one having ordinary skill in the art at the time the invention was made to locate the mast within the housing and pivot the entire housing instead of solely the mast, since it has been held that rearranging parts of an invention involves only routine skill in the art". It is noted that under no circumstances could the housing 32 be pivoted as it is the feature permanently attached to the boat and therefore we respectfully disagree with the Examiner's statement. The Examiner states that it has been held that "rearranging parts of an invention involves only routine skill in the art". First, there is no mere rearranging of parts as stated by the Examiner as the parts of Frick and that of the instant application do not coincide. Second, in In re Japiske 86 USPQ 70 (CCPA 1950), it was determined that the new placement of a starting switch was unpatentable because the shifting of the starting switch would

not have modified the operation of the device. In the Examiner's own admission there are clear differences in the operation of the Frick device and that of the instant application such that Applicant does not understand the Examiner's rejection as there is no mere rearrangement of parts because distinctly different parts are used and therefore there could not be a mere rearrangement. Third, the basic principle of invention is to produce a device which functions superiorly to the prior art and/or can be produced at a lower cost. That is clearly the case between the invention of the instant application and that of Frick. Put another way, almost all inventions are a recombination of old parts. However, the test in Japiske is the rearrangement of the same parts, and not the substitution of different parts for doing a similar function. It is respectfully requested that the Examiner consult with his supervisor on this issue as it is believed that the Examiner does not fully appreciate the teachings of In re Japiske.

In regards to claim 2, the instant application recites a holding plate and that the housing is pivotally mounted in the holding plate. In contrast, Frisk teaches that the holding plate 60 supports or is part of the housing 32 and the housing 32 is not pivotally mounted in the holding plate 60 and therefore is not believed to read on claim 2 of the instant application.

In regards to claim 3, applicant respectfully disagrees with the Examiner's statements because the whole concept is not possible in Frick. The holding plate 60 supports the housing 32 and no pivotal mounting is taught in Frick and therefore there is no hint or suggestion in Frick to incorporate the changes noted by the Examiner.

In regards to claim 4, it is noted that the actuator 52 of Frick is not connected to the base plate 60 as stated by the Examiner. Rather the actuator 52 is connected to the inside of the face plate 32 (see column 6, lines 9-15 of Frick).

In regards to claims 6 and 25-28, applicant respectfully disagrees with the Examiner's statement that it would be obvious to use carbon fiber in the mast. In support of the Examiner's position, the Examiner notes U.S. Patent No. 4,043,074 to Airhart. Airhart teaches the use of carbon fiber in fishing poles.

It is the applicant's position that carbon fiber has never been used in a fishing mast and that only metals such as steel or aluminum have ever been used. In other words, the use of a carbon fiber mast was contrary to all teachings in the prior art. Until now only metals were used exclusively in fishing masts because of the mistaken believe that they replicate the

natural movement of fish bait. As a boat progresses forward in the water, the drag coefficient of the fish bait puts a stress on the metal mast. The stress reaches a point where the metal mast springs back and pulls the fish bait out of the water during a spring back motion of the mast. In the prior art, the pulling of the fish bait out of the water was considered an essential feature and therefore only materials that spring back due to the drag forces provided by the fish bait were chosen.

In contrast, a carbon fiber mast has a higher strength than steel and does not spring back under the stresses created by drag forces of the fish bait. Therefore, the bait fish duplicates a natural swimming motion of live fish and does not jump out of the water every so often. In other words, the prior art teaches against using a mast formed of carbon fiber. A mast is not believed to be the equivalent of a fishing pole and the Examiner is once again, respectfully requested to show this teaching as the prior art is believed to teach against the Examiner's asserted position.

In regards to claim 10, it is noted that the inner ring 38 is not connected to the mast 14 in Frick as recited by the Examiner. Rather the inner ring is connected to the outer ring 36 which in turn is connected to the mast. Furthermore, the mast is pivotally connected to the outer ring and is not

rotably connected to the inner ring 38. In contrast, claim 10 of the instant application recites a base part 48 connected to the mast and rotatably supported in the housing. In Frick the inner ring 38 is connected to the actuator 78 but not to the mast. The outer ring 36 is connected to the mast but not the actuator 78 and is therefore not believed to read on claim 10 of the instant application.

In regards to claim 20, the Examiner states that the gimble tube recited in claim 20 is equivalent to the base part of the mast. It is stated that the gimble tube is the housing holding the mast and is not a base part of the mast as stated by the Examiner.

In items 19 and 20 on pages 5 and 6 of the above-identified Office action, claims 7, 8 and 19 have been rejected as being obvious over U.S. Patent 5,140,928 to Frick in view of U.S. Patent 5,445,102 to Rupp under 35 U.S.C. § 103. It is noted that claims 7, 8 and 19 depend from claim 1 and claim 1 is believed to be allowable and therefore claims 7, 8, and 19 are also believed to be allowable.

In items 21 - 27 on pages 6 and 7 of the above-identified Office action, claims 5 and 11-14 are obvious over U.S. Patent 5,140,928 to Frick in view of U.S. Patent 4,813,171 to Cooper et al. under 35 U.S.C. § 103. It is noted that claims 5, and

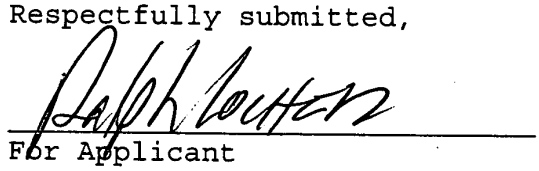
11-14 depend from claim 1 and claim 1 is believed to be allowable and therefore claims 5, and 11-14 are also believed to be allowable. Claims 21-24 have been canceled.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 or 25. Claims 1 and 25 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1 or claim 25.

In view of the foregoing, reconsideration and allowance of claims 1-21 and 25-28 are solicited.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,



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Version With Markings to Show Changes Made:

Claim 20 (amended). The fishing system according to claim 10, wherein said housing is a gimble tube, said first actuator has a first clasping arm connected to ~~said base part and a second~~ clasping arm connected to and supported by said gimble tube.